

109TH CONGRESS
2D SESSION

S. 2673

To temporarily reduce the Federal fuel tax through the suspension of royalty relief for oil production and certain energy production tax incentives.

IN THE SENATE OF THE UNITED STATES

APRIL 27, 2006

Mr. THUNE (for himself and Mr. GRAHAM) introduced the following bill; which was read twice and referred to the Committee on Finance

A BILL

To temporarily reduce the Federal fuel tax through the suspension of royalty relief for oil production and certain energy production tax incentives.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE; TABLE OF CONTENTS.**

4 (a) SHORT TITLE.—This Act may be cited as the
5 “Gas Price Reduction Act of 2006”.

6 (b) TABLE OF CONTENTS.—The table of contents of
7 this Act is as follows:

Sec. 1. Short title; table of contents.

TITLE I—TEMPORARY REDUCTION IN HIGHWAY FUEL TAX RATE

Sec. 101. Reduction in highway fuel tax and maintenance of Highway Trust Fund.

Sec. 102. Floor stock refunds.

Sec. 103. Floor stocks tax.

Sec. 104. Benefits of tax reduction should be passed on to consumers.

TITLE II—SUSPENSION OF ROYALTY RELIEF

Sec. 201. Suspension of royalty relief.

TITLE III—SUSPENSION OF CERTAIN ENERGY PRODUCTION TAX INCENTIVES

Sec. 301. Suspension of deduction for development expenditures.

Sec. 302. Suspension of deduction for certain mining exploration expenditures.

Sec. 303. Suspension of deduction for intangible drilling and development costs.

Sec. 304. Suspension of credit for producing fuel from a nonconventional source.

1 **TITLE I—TEMPORARY REDUC-** 2 **TION IN HIGHWAY FUEL TAX** 3 **RATE**

4 **SEC. 101. REDUCTION IN HIGHWAY FUEL TAX AND MAINTENANCE OF HIGHWAY TRUST FUND.**

6 (a) IN GENERAL.—Section 4081 of the Internal Revenue Code of 1986 (relating to imposition of tax on gasoline, diesel fuel, and kerosene) is amended by adding at the end the following new subsection:

10 “(f) TEMPORARY REDUCTION IN TAXES ON GASOLINE, DIESEL FUEL, AND KEROSENE.—

12 “(1) IN GENERAL.—During the applicable period, each rate of tax referred to in paragraph (2) shall be reduced to zero cents per gallon.

15 “(2) RATES OF TAX.—The rates of tax referred to in this paragraph are the rates of tax otherwise applicable under—

1 “(A) clause (i) and (iii) of subsection
 2 (a)(2)(A) (relating to gasoline, diesel fuel, and
 3 kerosene), determined without regard to sub-
 4 paragraph (B) or (C) of subsection (a)(2), and

5 “(B) paragraph (1) of section 4041(a) (re-
 6 lating to diesel fuel) with respect to fuel sold
 7 for use or used in a diesel-powered highway ve-
 8 hicle.

9 “(3) APPLICABLE PERIOD.—For purposes of
 10 this subsection, the term ‘applicable period’ means
 11 the period beginning after the date of the enactment
 12 of the Gas Price Reduction Act of 2006, and ending
 13 before October 1, 2006.

14 “(4) MAINTENANCE OF TRUST FUND DEPOS-
 15 ITS.—In determining the amounts to be appro-
 16 priated to the Highway Trust Fund under section
 17 9503, an amount equal to the reduction in revenues
 18 to the Treasury by reason of this subsection shall be
 19 treated as taxes received in the Treasury under this
 20 section.”.

21 (b) EFFECTIVE DATE.—The amendment made by
 22 this section shall take effect on the date of the enactment
 23 of this Act.

24 **SEC. 102. FLOOR STOCK REFUNDS.**

25 (a) IN GENERAL.—If—

1 (1) before a tax reduction date, a tax referred
 2 to in section 4081(f)(2) of the Internal Revenue
 3 Code of 1986 has been imposed on any liquid, and
 4 (2) on such date such liquid is held by a dealer
 5 and has not been used and is intended for sale, there
 6 shall be credited (without interest) to the person
 7 who paid such tax (hereafter in this section referred
 8 to as the “taxpayer”), against the taxpayer’s subse-
 9 quent semi-monthly deposit of such tax, an amount
 10 equal to the excess of the tax paid by the taxpayer
 11 over the amount of such tax which would be imposed
 12 on such liquid had the taxable event occurred on the
 13 tax reduction date.

14 (b) CERTIFICATION NECESSARY TO FILE CLAIM FOR
 15 CREDIT.—

16 (1) IN GENERAL.—In any case where liquid is
 17 held by a dealer (other than the taxpayer) on the tax
 18 reduction date, no credit amount with respect to
 19 such liquid shall be allowed to the taxpayer under
 20 subsection (a) unless the taxpayer files with the Sec-
 21 retary—

22 (A) a certification that the taxpayer has
 23 given a credit to such dealer with respect to
 24 such liquid against the dealer’s first purchase of

1 liquid from the taxpayer subsequent to the tax
2 reduction date, and

3 (B) a certification by such dealer that such
4 dealer has given a credit to a succeeding dealer
5 (if any) with respect to such liquid against the
6 succeeding dealer's first purchase of liquid from
7 such dealer subsequent to the tax reduction
8 date.

9 (2) REASONABLENESS OF CLAIMS CER-
10 TIFIED.—Any certification made under paragraph
11 (1) shall include an additional certification that the
12 claim for credit was reasonable based on the tax-
13 payer's or dealer's past business relationship with
14 the succeeding dealer.

15 (c) EXCEPTION FOR FUEL HELD IN RETAIL
16 STOCKS.—No credit or refund shall be allowed under this
17 section with respect to any liquid in retail stocks held at
18 the place where intended to be sold at retail.

19 (d) DEFINITIONS.—For purposes of this section—

20 (1) the terms “dealer” and “held by a dealer”
21 have the respective meanings given to such terms by
22 section 6412 of such Code; except that the term
23 “dealer” includes a producer, and

24 (2) the term “tax reduction date” means the
25 day after the date of the enactment of this Act.

1 (e) CERTAIN RULES TO APPLY.—Rules similar to the
 2 rules of subsections (b) and (c) of section 6412 of such
 3 Code shall apply for purposes of this section.

4 **SEC. 103. FLOOR STOCKS TAX.**

5 (a) IMPOSITION OF TAX.—In the case of any liquid
 6 on which tax would have been imposed under section 4081
 7 of the Internal Revenue Code of 1986 during the applica-
 8 ble period but for the amendments made by this title, and
 9 which is held on the floor stocks tax date by any person,
 10 there is hereby imposed a floor stocks tax in an amount
 11 equal to the tax which would be imposed on such liquid
 12 had the taxable event occurred on the floor stocks tax
 13 date.

14 (b) LIABILITY FOR TAX AND METHOD OF PAY-
 15 MENT.—

16 (1) LIABILITY FOR TAX.—A person holding a
 17 liquid on the floor stocks tax date to which the tax
 18 imposed by subsection (a) applies shall be liable for
 19 such tax.

20 (2) METHOD OF PAYMENT.—The tax imposed
 21 by subsection (a) shall be paid in such manner as
 22 the Secretary shall prescribe.

23 (3) TIME FOR PAYMENT.—The tax imposed by
 24 subsection (a) shall be paid on or before the date
 25 which is 6 months after the floor stocks tax date.

1 (c) DEFINITIONS.—For purposes of this section—

2 (1) HELD BY A PERSON.—A liquid shall be con-
3 sidered as “held by a person” if title thereto has
4 passed to such person (whether or not delivery to
5 the person has been made).

6 (2) GASOLINE, DIESEL FUEL, AND AVIATION
7 FUEL.—The terms “gasoline” and “diesel fuel” have
8 the respective meanings given such terms by sections
9 4083 of such Code.

10 (3) FLOOR STOCKS TAX DATE.—The term
11 “floor stocks tax date” means October 1, 2006.

12 (4) APPLICABLE PERIOD.—The term “applica-
13 ble period” has the meaning given such term by sec-
14 tion 4081(f)(3) of such Code.

15 (5) SECRETARY.—The term “Secretary” means
16 the Secretary of the Treasury or the Secretary’s del-
17 egate.

18 (d) EXCEPTION FOR EXEMPT USES.—The tax im-
19 posed by subsection (a) shall not apply to gasoline, diesel
20 fuel, kerosene, or aviation fuel held by any person exclu-
21 sively for any use to the extent a credit or refund of the
22 tax imposed by section 4081 of such Code is allowable for
23 such use.

24 (e) EXCEPTION FOR FUEL HELD IN VEHICLE
25 TANK.—No tax shall be imposed by subsection (a) on gas-

oline, diesel fuel, or kerosene held in the tank of a motor vehicle.

(f) EXCEPTION FOR CERTAIN AMOUNTS OF FUEL.—

(1) IN GENERAL.—No tax shall be imposed by subsection (a)—

(A) on gasoline held on the floor stocks tax date by any person if the aggregate amount of gasoline held by such person on such date does not exceed 4,000 gallons, and

(B) on diesel fuel or kerosene held on such date by any person if the aggregate amount of diesel fuel or kerosene held by such person on such date does not exceed 2,000 gallons.

The preceding sentence shall apply only if such person submits to the Secretary (at the time and in the manner required by the Secretary) such information as the Secretary shall require for purposes of this subsection.

(2) EXEMPT FUEL.—For purposes of paragraph (1), there shall not be taken into account fuel held by any person which is exempt from the tax imposed by subsection (a) by reason of subsection (d) or (e).

(3) CONTROLLED GROUPS.—For purposes of this subsection—

1 (A) CORPORATIONS.—

2 (i) IN GENERAL.—All persons treated
3 as a controlled group shall be treated as 1
4 person.

5 (ii) CONTROLLED GROUP.—The term
6 “controlled group” has the meaning given
7 to such term by subsection (a) of section
8 1563 of such Code; except that for such
9 purposes the phrase “more than 50 per-
10 cent” shall be substituted for the phrase
11 “at least 80 percent” each place it appears
12 in such subsection.

13 (B) NONINCORPORATED PERSONS UNDER
14 COMMON CONTROL.—Under regulations pre-
15 scribed by the Secretary, principles similar to
16 the principles of this subparagraph shall apply
17 to a group of persons under common control
18 where 1 or more of such persons is not a cor-
19 poration.

20 (g) OTHER LAW APPLICABLE.—All provisions of law,
21 including penalties, applicable with respect to the taxes
22 imposed by section 4081 of such Code shall, insofar as
23 applicable and not inconsistent with the provisions of this
24 section, apply with respect to the floor stock taxes imposed

1 by subsection (a) to the same extent as if such taxes were
2 imposed by such section 4081.

3 **SEC. 104. BENEFITS OF TAX REDUCTION SHOULD BE**
4 **PASSED ON TO CONSUMERS.**

5 (a) PASSTHROUGH TO CONSUMERS.—

6 (1) SENSE OF CONGRESS.—It is the sense of
7 Congress that—

8 (A) consumers immediately receive the
9 benefit of the reduction in taxes under this title,
10 and

11 (B) transportation motor fuels producers
12 and other dealers take such actions as nec-
13 essary to reduce transportation motor fuels
14 prices to reflect such reduction, including imme-
15 diate credits to customer accounts representing
16 tax refunds allowed as credits against excise tax
17 deposit payments under the floor stocks refund
18 provisions of this title.

19 (2) STUDY.—

20 (A) IN GENERAL.—The Comptroller Gen-
21 eral of the United States and the Attorney Gen-
22 eral of the United States shall conduct a study
23 of the reduction of taxes under this title to de-
24 termine whether there has been a passthrough
25 of such reduction.

1 (B) REPORT.—Not later than June 30,
2 2006, the Comptroller General of the United
3 States and the Attorney General of the United
4 States shall report to the Committee on Fi-
5 nance of the Senate and the Committee on
6 Ways and Means of the House of Representa-
7 tives the results of the study conducted under
8 subparagraph (A).

9 **TITLE II—SUSPENSION OF** 10 **ROYALTY RELIEF**

11 **SEC. 201. SUSPENSION OF ROYALTY RELIEF.**

12 (a) NEW LEASES.—

13 (1) REQUIREMENT.—The Secretary of the Inte-
14 rior (referred to in this title as the “Secretary”)
15 shall suspend the application of any provision of
16 Federal law under which a person would otherwise
17 be provided relief from a requirement to pay a roy-
18 alty for the production of oil or natural gas from
19 Federal land (including submerged land) occurring
20 on or after the date of enactment of this Act during
21 a period in which—

22 (A) for the production of oil, the average
23 price of crude oil in the United States during
24 the 4-week period immediately preceding the

1 suspension is greater than \$50.00 per barrel;
2 and

3 (B) for the production of natural gas, the
4 average wellhead price of natural gas in the
5 United States during the 4-week period imme-
6 diately preceding the suspension is greater than
7 \$6.25 per 1,000 cubic feet.

8 (2) DETERMINATION OF AVERAGE PRICES.—
9 For purposes of paragraph (1), the Secretary shall
10 determine average prices, taking into consideration
11 the most recent data reported by the Energy Infor-
12 mation Administration.

13 (b) RENEGOTIATION OF EXISTING LEASES.—

14 (1) REQUIREMENT.—The Secretary shall, to
15 the maximum extent practicable, renegotiate each
16 lease authorizing production of oil or natural gas on
17 Federal land (including submerged land) issued by
18 the Secretary before the date of the enactment of
19 this Act as the Secretary determines to be necessary
20 to modify the terms of the lease to ensure that a
21 suspension of a requirement to pay royalties under
22 the lease does not apply to production described in
23 subsection (a)(1).

24 (2) FAILURE TO RENEGOTIATE AND MODIFY.—

(A) IN GENERAL.—Beginning on the date that is 1 year after the date of enactment of this Act, a lessee that does not renegotiate a lease described in paragraph (1) in accordance with that paragraph shall not be eligible to enter into a new lease authorizing production of oil or natural gas on Federal land (including submerged land).

(B) TRANSFERS.—A lessee shall not be eligible to obtain by sale or other transfer any lease described in paragraph (1) issued before the date of enactment of this Act, unless the lessee—

(i) renegotiates the lease; and

(ii) enters into an agreement with the Secretary to modify the terms of the lease in accordance with paragraph (1).

TITLE III—SUSPENSION OF CERTAIN ENERGY PRODUCTION TAX INCENTIVES

SEC. 301. SUSPENSION OF DEDUCTION FOR DEVELOPMENT EXPENDITURES.

Section 616 of the Internal Revenue Code of 1986 is amended by adding at the end the following new subsection:

1 “(f) NONAPPLICATION OF SECTION.—This section
2 shall not apply with respect to any expenditure paid or
3 incurred during the period beginning on the date of the
4 enactment of this subsection and ending on the date on
5 which aggregate revenues resulting from the provisions of,
6 and amendments made by, sections 201 through 304 of
7 the Gas Price Reduction Act of 2006 are estimated by
8 the Secretary to equal the aggregate appropriations made
9 to the Highway Trust Fund by reason of section
10 9503(f)(4).”.

11 **SEC. 302. SUSPENSION OF DEDUCTION FOR CERTAIN MIN-**
12 **ING EXPLORATION EXPENDITURES.**

13 Section 617 of the Internal Revenue Code of 1986
14 is amended by adding at the end the following new sub-
15 section:

16 “(j) NONAPPLICATION OF SECTION.—This section
17 shall not apply with respect to any expenditure paid or
18 incurred during the period beginning on the date of the
19 enactment of this subsection and ending on the date on
20 which aggregate revenues resulting from the provisions of,
21 and amendments made by, sections 201 through 304 of
22 the Gas Price Reduction Act of 2006 are estimated by
23 the Secretary to equal the aggregate appropriations made
24 to the Highway Trust Fund by reason of section
25 9503(f)(4).”.

1 **SEC. 303. SUSPENSION OF DEDUCTION FOR INTANGIBLE**
 2 **DRILLING AND DEVELOPMENT COSTS.**

3 Section 263(c) of the Internal Revenue Code of 1986
 4 is amended by adding at the end the following new sen-
 5 tence: “This section shall not apply with respect to any
 6 costs paid or incurred during the period beginning on the
 7 date of the enactment of this sentence and ending on the
 8 date on which aggregate revenues resulting from the provi-
 9 sions of, and amendments made by, sections 201 through
 10 304 of the Gas Price Reduction Act of 2006 are estimated
 11 by the Secretary to equal the aggregate appropriations
 12 made to the Highway Trust Fund by reason of section
 13 9503(f)(4).”.

14 **SEC. 304. SUSPENSION OF CREDIT FOR PRODUCING FUEL**
 15 **FROM A NONCONVENTIONAL SOURCE.**

16 Section 45K of the Internal Revenue Code of 1986
 17 is amended by adding at the end the following new sub-
 18 section:

19 “(h) NONAPPLICATION OF SECTION.—This section
 20 shall not apply with respect to any fuel sold during the
 21 period beginning on the date of the enactment of this sub-
 22 section and ending on the date on which aggregate reve-
 23 nues resulting from the provisions of, and amendments
 24 made by, sections 201 through 304 of the Gas Price Re-
 25 duction Act of 2006 are estimated by the Secretary to

- 1 equal the aggregate appropriations made to the Highway
- 2 Trust Fund by reason of section 9503(f)(4).”.

